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NO. 3283 P. 2

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Examiner J. Taylor Cleveland of the United States Patent and Trademark
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On: June 7, 2002

PATENT

Attorney Docket No. 20048-003320US

TOWNSEND and TOWNSEND and CREW LLP

By: *A. Vazquez*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

MCMILLAN, William A. et al.

Application No.: 09/808,706

Filed: March 14, 2001

For: METHODS FOR
QUANTITATIVE ANALYSIS OF
A NUCLEIC ACID
AMPLIFICATION REACTION

Examiner: Cleveland, J. Taylor

Art Unit: 1634

**RESPONSE TO RESTRICTION
REQUIREMENT**

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In an Action mailed May 7, 2002, the Examiner restricted the subject invention into three Groups:

Group I. Claims 1-8, drawn to a method for determining an unknown starting quantity of a target nucleic acid sequence in a test sample, classified in class 435, subclass 6.

Group II. Claims 9-19, drawn to a method for determining an unknown starting quantity of a target nucleic acid sequence in a test sample, classified in class 435, subclass 6.

Group III. Claims 20-28, a method for determining an unknown starting quantity of a target nucleic acid sequence in a test sample, classified in class 435, subclass 6.

The Examiner asserts that the Inventions are unrelated to each other since they have different method steps. Group II includes a step of normalization, which is not

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NO. 3283 P. 3

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PATENT

Attorney Docket No. 20048-003320US

TOWNSEND and TOWNSEND and CREW LLP

By: *A. V. Voznes*

found in Group I. Group II requires the use of an internal control, which Group III does not. Group III requires that a second standard be amplified, while Group I does not.

In response, Applicants hereby elect Group I, claims 1-8, with traverse. Applicants respectfully direct the attention of the Examiner to the fact that the current application is a division of USSN 09/562,195, in which the Examiner imposed a four-way restriction requirement. The current application presents the claims originally assigned to Group III in the parent application. The Examiner now seeks to further subdivide the invention, when she herself made the original determination that the method claims were members of the same Group. Nothing has changed since then. The claims are still directed to methods of determining an unknown starting quantity of a nucleic acid sequence, all classified in the same subclass. The fact that there are some differences in the method steps overlooks the fact that there are many similarities. Applicants request reconsideration, withdrawal of the restriction and simultaneous examination of all pending claims.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,

William Schmonsees
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NO. 3283 P. 1

Atty Docket No. 020048-003320US

PTO FAX NO.: 1-703-872-9306

ATTENTION: Examiner Janell E. Taylor

Group Art Unit 1634

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FOR THE PERSONAL ATTENTION OF
EXAMINER Janell E. Taylor

CERTIFICATION OF FACSIMILE TRANSMISSION

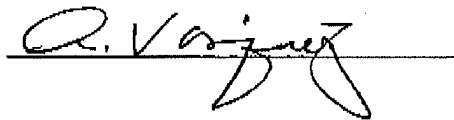
I hereby certify that the following document in re Application of William A. McMillan, et al., Application No. 09/808,706, filed March 14, 2001 for METHOD FOR QUANTITATIVE ANALYSIS OF A NUCLEIC ACID AMPLIFICATION REACTION is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Document(s) Attached

1. Response to Restriction Requirement (2 pages)

Number of pages being transmitted, including this page: 3

Dated: June 7, 2002



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